



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,629	08/28/2003	Nino Silvestro	LEE 2 00306	7501

27885 7590 04/18/2005

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

KERNS, KEVIN P

ART UNIT PAPER NUMBER

1725

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,629

Applicant(s)

SILVESTRO, NINO

Examiner

Kevin P. Kerns

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: in the 10th line, "the" should be added before "first hook". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 contains the trademark/trade name TEFLON. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe polytetrafluoroethylene (PTFE) and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettinga et al. (US 4,679,368).

Pettinga et al. disclose a rail panel mounting latch for use on a housing structure, in which the rail panel mounting latch includes a latch 10 secured to a panel (slidable door 12); a track member (hanger rails 28) defining notches and slots onto which the door slides; a first hook 90 that engages square slot 16 (first notch), as well as a second hook 116 that engages rectangular slot 17 (second notch), such that the distances between the hooks and notches differ and allow the panel to be removed only at an angle while not simultaneously aligning each hook with each notch; and a locking mechanism in the form of bar lock 62 and plug lock 64 on latch 10 (abstract; column 1, lines 5-8; column 2, lines 28-68; column 3, lines 1-62; column 4, lines 21-68; column 5, line 1 through column 7, line 37; and Figures 1-4). Although not specifically disclosed, one of ordinary skill in the art would have recognized that the door would be slidably movable on the hanger rails in a low friction manner, in order to easily gain access to and remove the panel from the track member.

6. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettinga et al. (US 4,679,368) in view of Latvvis et al. (US 5,734,148).

Pettinga et al. disclose and/or suggest the elements of claims 15-21 above.

Pettinga et al. do not disclose that the panel assembly is used on an electric arc welder.

However, Latvvis et al. disclose a retention means for side panels for a welding machine, in which the welding machine 1 includes a base 3 having a floor 29 and a plurality of slots 44; a welding power supply 17 mounted to the base; an enclosure (housing defining a cavity and opening) attached to the base; two removable side panels 23,25 (doors, or hanger members) having first and second ends and provided with sealing gasket 70 (protector); and track members (horizontal ledges 39,43 having respective vertical lips 41,45) mounted to the housing, such that the track members (39,43) are provided with two pairs of notches (slots 47,49) adapted to receive tabs/clips on respective doors/panels, with the side panel assembly being advantageous for providing easy access to welding components on the interior of the welder housing (abstract; column 1, lines 40-67; column 2, lines 1-4 and 42-67; column 3, lines 1-67; column 4, lines 1-17; and Figures 1-11).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the rail panel mounting latch disclosed/suggested by Pettinga et al., by using the retention means for side panels for a welding machine, as taught by Latvvis et al., in order to provide easy access to welding

Art Unit: 1725

components on the interior of the welder housing (Latvis et al.; column 1, lines 66-67; and column 2, lines 1-4).

Response to Arguments

7. The examiner acknowledges the applicant's amendment/remarks received by the USPTO on January 25, 2005. The amendment overcomes the prior objections to the specification and claim. However, a new claim objection and a new rejection under 35 USC 112, 2nd paragraph are cited in above paragraphs 1 and 3. Claims 1-21 remain under consideration in the application.

8. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,416,144 is also cited in PTO-892.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

Art Unit: 1725

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin P. Kerns *Kevin Kerns 1/14/05*
Primary Examiner
Art Unit 1725

KPK
kpk
April 14, 2005